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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,576	03/11/2004	Jocelyne Cote	14918-1US-1 CMB/VP/ad	4817
20988 7590 05/11/2009 OGILVY RENAULT LLP 1981 MCGILL COLLEGE AVENUE SUITE 1600 MONTREAL, QC H3A2Y3 CANADA				
EXAMINER NGUYEN, HUY THANH				
ART UNIT		PAPER NUMBER		
2621				
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05/11/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/797,576

**Applicant(s)**

COTE ET AL.

**Examiner**

HUY T. NGUYEN

**Art Unit**

2621

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04 March 2009 has been entered.

### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thornton*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. Claims 22-24 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2 of U.S. Patent No. 7,343,082 in view of Lange and Schulz. Although the conflicting claims are not identical, they are not patentably distinct from each other because the difference between claims 1-33 of the present application and claims 1-2 of U.S. Patent No. 7,343,082 is that claims 1-2 of U.S. Patent No. 7,343,082 do not specify that the text is a closed captioning of an audio signal. However, it is noted that providing the text as a closed captioning of an audio signal from a speech recognition module is known in the art as taught by Lange (Fig. 2, section 0020). It would have been obvious to one of ordinary skill in the art to modify claims 1-2 of with Lange by providing the text from the speech recognition module as closed captioning of an audio signal as an alternative to the text of claims 1-2 and to produce claims 22-24 of the presentation application. Schulz teaches using an animation assistant (Fig. 2).

Further for claims 23-24, claims 1-2 of U.S. Patent No. 7,343,082 do not teach providing an indication of an amount of replacement of units. Schulz teaches an indication of an amount of replacement of units (Fig. 2, column 2, lines 25-25, column 5, and lines 5-35). It would have been obvious to one of ordinary skill in the art to modify claims 1-2 of U.S. Patent No. 7,343,082 with Schulz by providing an indication of replacement of units to claims 1-2 of U.S. Patent No. 7,343,082 produce claims 23 and 24 of the present application.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schulz (6,185,538) in view of Lange et al (US 20010025241 A1) and Reid et al (7,085,842)

Regarding claim 22, Schulz discloses a method for producing an audiovisual work, the method comprises the steps of:

providing an audio signal to a speech recognition associating module (column 1 line 60 to column 2, line 68, column 4 lines 25-49); performing a speech recognition of the audio/ video signal by extracting basic units of recognized speech and related time codes received from a speech recognition module (Fig. 2, column 4, lines 35-47,,column 5, lines 40-46, processing basis units to provide synchronization

information for production of the audiovisual work (column 2, lines 25-35); and display user interface the synchronization information (Fig. 2).

Schulz fails to specifically teach that the text is closed captioning of an audio signal.

Lange teaches providing closed captioning of an audio signal from a speech recognition module (section 0020, Fig. 2). It would have been obvious to one of ordinary skill in the art to modify Schulz with Lange by modifying the speech recognition module of Schulz with speech recognition module of Lange to provide the closed captioning of the audio signal from the audio source as an alternative to the text of Schulz.

Schulze as modified with Lange fails to specifically teach that each unit is a word and has a related time code. Reid teaches an apparatus for synchronizing the word with video having a generating means for generating a time code for a word (column 7, lines 55-65). It would have been obvious to one of ordinary skill in the art to modify Schulz with Reid by providing the apparatus of Schulz with a generating mean as taught by Reid for generating a time code for a word in order to accurately synchronizing the word with video.

Further Schulz teaches using an animation assistant (a visual indication of a matching enabling synchronized adaptation of said audio signal (Fig. 2).

Regarding claim 23, Schulz teaches providing an indication of an amount of successful replacement of the plurality of basic units of recognized speech of the audio

signal by the plurality of basic units of recognized speech of the adapted audio signal (Fig. 2, column 2, lines 25-55).

Regarding claim 24, Schulz teaches the step of providing a minimum amount required of successful replacement of the plurality of basic units of recognized speech of the audio signal by the plurality of basic units of recognized speech of the adapted audio signal, the method further comprising the step of canceling the providing of the at least one replaced plurality of basic units with related replaced time codes if the at least one replaced plurality of basic units is lower than the minimum amount required of successful replacement since Schulz teaches that the audio video and text can be edited (column 5, lines 5-25).

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571)272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Q. Tran can be reached on (571) 272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HUY T NGUYEN/  
Primary Examiner, Art Unit 2621